

SENATE BILL 1340

By Bell

AN ACT to amend Tennessee Code Annotated, Title 40,
Chapter 28, relative to the board of paroles.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 40-28-103, is amended by deleting the section in its entirety and substituting instead the following:

(a) Effective July 1, 2013, there is created a newly constituted board of paroles.

The board shall consist of nine (9) members.

(b) The governor and the speaker of the house of representatives and speaker of the senate shall each appoint one (1) member from each grand division of the state.

(c)

(1) In making the initial appointment, and all subsequent appointments, the speaker of the house of representatives shall appoint a member from middle tennessee who is a former district attorney general, assistant district attorney general, former general sessions, trial or appellate judge, former law enforcement official or former district public defender or assistant district public defender.

(2) In making the initial appointment, and all subsequent appointments, the speaker of the senate shall appoint a member from east Tennessee who is a former district attorney general, assistant district attorney general, former general sessions, trial or appellate judge, former law enforcement official or former district public defender or assistant district public defender.

(3) In making the initial appointment, and all subsequent appointments, the governor shall appoint a member from west Tennessee who is a former

district attorney general, assistant district attorney general, former general sessions, trial or appellate judge, former law enforcement official or former district public defender or assistant district public defender.

(d) In considering persons for appointment other than the members specified above, the appointing authority shall give preference to candidates with training, education or experience in the criminal justice system, law, medicine, education, social work or the behavioral sciences. No member of the board shall hold any other salaried public office, whether elective or appointive, nor shall any member engage for pay in any other business or profession.

(e) Vacancies occurring in an office of a member of the board before the expiration of a term by reason of death, resignation, removal or any other reason shall be filled by the appointing authority who selected the vacating member in the same manner as a regular appointment for the remainder of the unexpired term.

(f) Each member shall serve a term of two (2) years and members are eligible for reappointment. Each member of the board is removable for good cause by the governor or by a two-thirds (2/3) vote of each house of the general assembly in the same manner provided by Article VI, § 6 of the Constitution of Tennessee for the removal of judges.

(g) The board shall elect a chairman who shall serve for a two-year term and may be reelected by the board.

SECTION 2. Tennessee Code Annotated, Section 40-28-105, is amended by deleting the section in its entirety and substituting instead the following:

(a) The permanent office of the board shall be at Nashville.

(b) The board shall prescribe the times and places of its meetings and shall schedule hearings at each correctional institution or facility at times as may be necessary to discharge its duties. All deliberations and votes taken by the board concerning an inmate shall be by public ballot or public roll call. No secret ballots or

secret roll calls shall be permitted. However, the vote of the election of the chair of the board may be in private.

(c) The annual compensation of each member of the board shall be determined by adding the amount members of the board were paid from June 30, 2012, to June 30, 2013, and dividing it by the nine (9) board members that will constitute the board on July 1, 2013.

(d)

(1) A majority of members of the board shall constitute a quorum for official administrative business.

(2) The board shall serve in three (3) panels with the three (3) east Tennessee members constituting the east Tennessee panel, the three (3) middle Tennessee members constituting the middle Tennessee panel, and the three (3) west Tennessee members constituting the west Tennessee panel.

(e)

(1) Except as provided in subsection (f), an inmate who is before the board regarding a grant or denial of parole shall be heard by all three (3) members of the parole panel serving the institution in which the inmate is incarcerated.

(2) An inmate who is before the board regarding a rescission or revocation of parole shall be heard by all three (3) members of the parole panel serving the grand division in which the violation occurred.

(3) Except as provided in subsection (f) the grant, denial, rescission, or revocation of parole shall require the concurrence of two (2) of the three (3) board members who attended the hearing.

(4) The administrative continuance of a case does not require board approval.

(f)

(1) If an inmate incarcerated for a Class A or B felony is eligible for parole, all nine (9) board members must be present at the inmate's parole hearing and at least six (6) members must affirmatively concur in voting to parole the inmate before the inmate can be released.

(2) The procedure in subdivision (f)(1) shall also be utilized if the parole of such an inmate is being revoked.

(g) If the board member on a panel who is a former district attorney general, assistant district attorney general, former general sessions, trial or appellate judge, former law enforcement official or former district public defender or assistant district public defender believes such member cannot attend a hearing on a particular inmate because the member has a conflict that occurred while the board member was still a district attorney, judge, law enforcement official or public defender, the chair of the board shall designate one (1) of the district attorney, judge, law enforcement official or public defender members from one (1) of the other two (2) panels to hear the matter.

(h)

(1) Inmates whose parole has been revoked or rescinded, or who have been denied parole, or whose grant of parole has been rescinded, may request an appellate review by the board. The board shall establish a reasonable time limit for filing of the request. If the time limit is not met, the request for an appellate review will be denied. An appellate request will be screened by a board member and a review will be conducted if:

(A) There is new evidence or information that was not available at the time of the hearing;

(B) There are allegations of misconduct by the hearing panel that are substantiated by the record; or

(C) There were significant procedural errors by a hearing panel.

(2) The appellate review shall be conducted from the record of the first hearing and the appearance of the inmate is not necessary. If a board member decides that an appearance hearing is necessary, it will first be scheduled before hearing panel that did not conduct the hearing that is the subject of the appeal. A summary of the appellate hearing will be prepared and the full board will vote after a review of the summary and the record of the first hearing. The decision after an appellate review will require the concurrence of three (3) board members. The decision rendered after an appellate review is final.

SECTION 3. Tennessee Code Annotated, Section 40-28-119, is amended by deleting subsection (c) and substituting instead the following:

(c) Unless specifically required by federal privacy laws to be confidential, all records of an inmate specified in subsection (a) and all notes of the department, the board, including the notes recorded by the inmate's parole officer or officers, or any reports, evaluations, recommendations, disciplinary action, violations, or the results of any testing performed on the inmate is open to public inspection.

(d) All letters or emails or other communication sent to the board, a member of the board or an employee of the board in support of or opposition to an inmate's parole is a public record. However, a victim of one (1) of the inmate's offenses can elect to have any communication sent by or on behalf of the victim for consideration by the board to be confidential.

SECTION 4. Any rule or regulation or provision of title 40, chapter 28 that is in conflict with any provision of this act shall be, on the effective date of this act, superseded and null and void. The board shall not have the authority to any promulgate rule or regulation after the effective date of this act that is in conflict with any provision of this act.

SECTION 5. For the purpose of the appointing authority's selecting the members of the new board of paroles pursuant to Section 1 of this act, it shall take effect upon becoming a law, the public welfare requiring it. For all other reasons it shall take effect on July 1, 2013, the public welfare requiring it.